

# IN THE SUPREME COURT OF YUKON

Citation: *G.S.Z. v. L.N.*, 2008 YKSC 26

Date: 20080414  
S.C. No. 07-B0007  
Registry: Whitehorse

Between:

**G.S.Z.**

Plaintiff

And

**L.N.**

Defendant

Before: Mr. Justice R.S. Veale

Appearances:

Kathleen Kinchen  
Shayne Fairman

Counsel for the plaintiff  
Counsel for the defendant

## REASONS FOR JUDGMENT (Judicial Arbitration)

### INTRODUCTION

[1] This application concerns a six-year-old child who is in Grade 1 in French Immersion. He appears to be an intelligent child but has some challenges in Math and reading in French, much of which relates to his ability to focus and pay attention in order to complete the tasks assigned to him. A neurologist has been consulted and has recommended that the Child Development Centre and school resources be accessed to address his distractibility issues.

[2] The parents have had communication difficulties which brought them to a settlement conference last fall. The residency schedule for the child was resolved although some issues remain since the order has not been filed.

### **Application**

[3] The mother and father have brought a further issue to be determined by me on a binding arbitration basis, as the issue has not been resolved despite attempts to do so. Affidavits have been filed and the matter has proceeded informally.

[4] The father wishes to take the child to Costa Rica where a family wedding will take place. He proposes to take the child out of school from April 23 to May 9, which amounts to a 16-day trip which includes 13 school days. The father feels that there are no academic difficulties involved as the child's teacher indicates that work assignments can be taken to keep him current.

[5] The mother opposes the trip out of a legitimate concern that it may impact the child's likelihood of succeeding both academically and behaviourally in Grade 2 next fall.

[6] She points out that the child's distractibility increased after the Spring Break suggesting that on return from holidays an adjustment period will be required. However, there is no doubt that he will succeed academically in Grade 1. Although he has some academic challenges, the main issue is behavioural.

[7] One unfortunate aspect is that although the father raised his desire to do the trip last fall, the communication over the terms and timing of the trip was never adequately addressed until March when the father booked airfares while no agreement was reached

as to the length of the trip. The fact that the tickets are booked has no relevance to my decision as the father knew the trip might not be approved.

[8] This is not a case where there is some risk to the child's well-being. The concern of the mother is that it may be detrimental to the child's educational development. However, there is no evidence from the child's teacher that his education will suffer, although that will depend a great deal on the priority that is given to the child's education while on the trip.

## **DECISION**

[9] I have concluded that the trip to Costa Rica may proceed on the following conditions:

1. The child will leave Whitehorse on April 23, 2008, and travel to Costa Rica. He will return on May 9, 2008.
2. The father will provide the dates, addresses and phone numbers (or e-mail addresses) of all hotels so that the mother can communicate with the child at least once a week and on arrival in Costa Rica.
3. The father and the mother shall ensure that the child has the necessary inoculations for travel to Costa Rica.
4. The father and mother will meet with the child's teacher to discuss the education plan and materials for the trip. The father shall follow the direction of the teacher on the materials to be taught, the work product to be done by the child and returned to the teacher, as well as the amount of time in hours to be spent with the child so he will have a roughly equivalent educational experience.

5. On the child's return, he will be assessed by the teacher to determine if he needs additional time either at school, at home, or with a tutor at the father's expense, if tutoring is necessary in the teacher's opinion.

[10] The mother shall meet the child at the airport on his return and have the care and control of the child for the following weekend in addition to her regular time.

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VEALE J.